

Message Text

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ACTION AF-10

INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 DODE-00 PM-05
H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01
SP-02 SS-15 USIA-06 HA-05 /087 W
-----073414 051015Z /21

R 050928Z JAN 78
FM AMEMBASSY PRETORIA
TO SECSTATE WASHDC 097
INFO AMCONSUL CAPE TOWN
AMEMBASSY DAR ES SALAAM
AMCONSUL DURBAN
AMEMBASSY GABORONE
USMISSION GENEVA
AMCONSUL JOHANNESBURG
AMEMBASSY LONDON
AMEMBASSY LUSAKA
AMEMBASSY MAPUTO
USMISSION USUN NEW YORK

C O N F I D E N T I A L PRETORIA 0062

E.O. 11652: GDS
TAGS: PINT, SHUM, SF
SUBJECT: BIKO FAMILY SUIT AGAINST SAG

REF: PRETORIA 0038 (NOTAL)

1. EMBASSY CONTACTED BIKO FAMILY ATTORNEY SHUN CHETTY
ON JAN. 4 TO DISCUSS DETAILS OF SUIT ACTION BEING TAKEN
(REFTEL). CHETTY SAID THAT PRESS ACCOUNTS WERE ACCURATE
ON AMOUNTS BEING DEMANDED AND REASONS FOR ACTION. BESIDES
SENDING LETTERS OF DEMAND TO POLICE COMMISSIONER PRINSLOO
AND HEALTH MINISTER VAN DER MERWE, CHETTY SAID THAT
THE NINE SECURITY POLICE AND TWO DISTRICT SURGEONS
INVOLVED HAD ALSO RECEIVED LETTERS. THEY, ALONG
WITH KRUGER AND VAN DER MERWE, WILL BE NAMED IN
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THE SUIT.

2. CHETTY SAID THAT HE DID NOT EXPECT THE SAG TO PAY
THE LETTERS OF DEMAND AND THAT THE CASE WOULD BE
TAKEN TO COURT. THE HEARING WOULD, OF NECESSITY,
HE SAID, REHASH ENTIRELY THE PROCEEDINGS AT THE
INQUEST. MOREOVER, BECAUSE THE HEARING WOULD BE

BEFORE A JUDGE AND NOT A MAGISTRATE, AND BECAUSE THE FAMILY'S LAWYERS WOULD BE ALLOWED TO CALL ANY WITNESSES (DURING THE INQUEST HEARING THE MAGISTRATE RULED ON WHICH WITNESSES COULD APPEAR), CHETTY SAID THIS HEARING WOULD BE DRAWN OUT AND BRING MANY MORE FACTS TO LIGHT IN THE CASE. THE VENUE FOR THE HEARINGS IS STILL UNCERTAIN, CHETTY SAID. UNDER LAW, A CIVIL CASE SHOULD BE HELD IN THE COMMUNITY FROM WHICH THE RESPONDENTS COME, I.E., PORT ELIZABETH. CHETTY WOULD, HOWEVER, PREFER TO HAVE THE CASE IN PRETORIA WHERE HE FEELS IT POSSIBLE TO HAVE A MORE OBJECTIVE JUDGE. HE FEELS BECAUSE KRUGER AND VAN DER MERWE WILL BE CO-RESPONDENTS IN THE SUIT, HE MAY BE ABLE TO GET THE VENUE CHANGED. CHETTY SAYS THAT A FINDING WILL HAVE TO BE MADE IN THESE HEARINGS, EITHER FOR OR AGAINST THE FAMILY, AND THAT HE IS HOPEFUL THAT THE FINDINGS MAY GO IN THEIR FAVOR. IF SO, THEY WILL SEE THIS AS A MORAL VICTORY AND A PUBLIC ACCUSATION OF MURDER AIMED AT THE SECURITY POLICE EVEN THOUGH NO CRIMINAL ACTION CAN BE TAKEN.

3. CHETTY SAID THAT THE REASON PRINSLOO IS RECIPIENT OF THE LETTER OF DEMAND IS DUE TO STATUTORY REQUIREMENTS THAT LETTER BE SENT TO PERSON IMMEDIATELY RESPONSIBLE FOR THE CONDUCT OF THE RESPONDENTS. WHEN THE SUIT ACTION IS INSTITUTED, HOWEVER, CHETTY SAID CONFIDENTIAL

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THAT THE MINISTER COULD BE BROUGHT IN AS RESPONDENT. THEREFORE, KRUGER WILL BE TAKEN TO COURT AND NOT PRINSLOO. BOWDLER

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